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NECESSITY OF ENDING THE ECONOMIC, COMMERCIAL AND FINANCIAL EMBARGO IMPOSED BY THE UNITED STATES OF AMERICA AGAINST CUBA

Letter dated 6 November 1992 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General

I have the honour to draw your attention to further aggressive measures against Cuba taken recently by the Government of the United States of America. Barely two weeks ago, on 23 October 1992, President George Bush brought into force, as part of the defense appropriations act, the arrogantly entitled "Cuban Democracy Act of 1992" which he signed in Miami amidst considerable electoral fanfare; the Act was also known, while at the legislative stage, as the "Toricelli draft", and was adopted by the United States Congress on 6 October.

This Act, whose aim is further to tighten the economic, commercial and financial embargo imposed by the United States of America against Cuba, constitutes a gross and unprecedented violation of the Charter and of international law, as it seeks to subordinate the sovereignty not only of Cuba - which is the main target of the measure - but also of each and every one of the members of the international community to the political decisions taken by Washington, which are presented as purportedly legal measures of an extraterritorial scope.

These further measures by the Government of the United States provide full confirmation for the positions long maintained by Cuba, and which we put before the Organization since the forty-sixth session of the General Assembly, regarding the illegal and immoral policy of blockade and isolation practised against Cuba by the Government of the United States for over three decades.

In view of its relevance to the consideration of this matter by the General Assembly at its current session, I should be grateful if you would circulate this letter and the annex thereto as official documents of the General Assembly under agenda item 39.

(Signed) Alcibíades HIDALGO BASULTO
Ambassador
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to the United Nations

ANNEX

On 23 October 1992, despite the opposition of many in his own country and the strong objections raised in the international community, President George Bush of the United States signed into law legislation which takes the United States economic, commercial and financial blockade of Cuba to new and still greater extremes. Both an assault on the sovereignty of Cuba and on the sovereignty of third countries, this new United States measure, the so-called "Cuban Democracy Act of 1992", is a grave and open challenge to the international community as a whole.

Even before the passage of this legislation, we demonstrated that the blockade of the United States was in violation of international law because it seeks to coerce Cuba into adopting an economic and political system imposed by the United States. We have always maintained also that the national security and foreign policy concerns advanced by the United States for more than 30 years to justify its blockade were pretextual. Now, these pretences are gone and the true motivations of the blockade of the United States have been openly and arrogantly revealed.

With a candour that is both astonishing and frightening, the Government of the United States has proclaimed, in this new legislation and in the accompanying statements of President Bush and his State Department, its goal of coercing Cuba, through an ever-intensifying programme of economic strangulation, into abandoning its economic and political system in favour of one dictated by the United States, thus blatantly violating the United Nations Charter and international law as concerns the fundamental rights of Cuba to exercise, without hindrance, its sovereignty, independence, self-determination and its juridical equality as a State.

We had additionally detailed for the General Assembly the many ways in which the United States went well beyond suspending commerce between its own citizens and Cuba to seek the most sweeping extraterritorial application of its economic measures and we have demonstrated that, in doing so, the United States has exceeded the confines of its national jurisdiction under international law, has violated the sovereignty of other States and has violated as well the treaty rights of third countries. a/

The new measure of the Government of the United States goes still further in the extraterritorial extension of its own legislation by proclaiming the right of the United States, as a matter of law as well as policy, to intrude on the sovereignty of third countries and to regulate unilaterally international trade and shipping in order to achieve its goal of determining Cuba's political and economic system.

The United States attempt through this most recent blockade measure to, at the same time, determine the political and economic system of another nation (Cuba in this instance), submit all other countries to its legal jurisdiction, and unilaterally regulate international trade and shipping for

the purposes of its own political expediency, is a glaring denial of the most fundamental rights of all States under the Charter and international law and of the United Nations itself. As such, it must be firmly rejected by this Organization.

If this growing challenge goes unanswered, the United Nations and the international order premised on the principles that its Charter seeks to preserve will suffer irreparable injury.

Among the many unacceptable features of this new legislation are the following:

1. United States goals and policy

As suggested by its title, "Cuban Democracy Act of 1992", the legislation makes no pretence of being premised on United States national security or foreign policy concerns and states the dislike of the Government of the United States of the political and economic system of Cuba as the basis of its policy towards that country. It defines the objective of that policy as the establishment in Cuba of a system to the liking of the Government of the United States. It further defines the nature of the policy as that of undertaking United States Government actions to overthrow the existing Cuban system, both through direct bilateral measures and by coercing the cooperation of other States.

Indeed, the legislation prohibits the President of the United States from modifying the ban on third-country companies trading with Cuba or the ban on third-country shipping - both of which it establishes - unless he certifies to the United States Congress that Cuba is "moving towards establishing a free market economic system" and has adopted specified changes in its electoral and political system. The rights and sovereignty of third countries are thus made subordinate to the effort of the United States to dictate the internal political and economic system of Cuba.

2. Third-country companies trade with Cuba

The legislation categorically prohibits third-country companies from engaging in any transactions with Cuba if they are owned or controlled by United States nationals. It matters not that the third country's policy or law favours trade with Cuba. Nor does it matter that the companies are organized under the laws of the third country, domiciled there, managed by third-country nationals, carry out their business independent of any control or direction by their United States shareholders and wish to engage in transactions with Cuba lacking any nexus whatsoever to the United States. Furthermore, third-country companies are subject to this prohibition even if foreign nationals own as much as 60 per cent of the company's stock and United States nationals simply own the balance.

3. Third-country shipping

The legislation prohibits thir country vessels from loading or unloading goods in United States ports for 18(days after they have entered Cuban ports for trade in goods or services. Thi "blacklist" of third-country vessels trading with Cuba applies even thou there is no United States or Cuban interest in the vessel and even thou h there is no cargo on board bound to or from Cuba.

The legislation prohibits thir country vessels from entering United States ports if they are carrying go ds or passengers to or from Cuba. This prohibition prevents third-country si ps from taking on bunker fuel or other ships' stores in United States ports as well as from loading or unloading cargo.

The legislation prohibits the sl e of ships' stores of United States origin anywhere in the world to thir -country vessels carrying goods or passengers to or from Cuba. Thus, a third-country company without any United States interest, operating in a thir -country port, is prohibited by this legislation from servicing third-cou try vessels with bunker fuel or ships' stores of United States origin.

The legislation closes United S ates ports to third-country vessels carrying third-country goods from on third country to another if the goods were made in whole or in part from g ds of Cuban origin. It matters not that the goods were manufactured in a thi country, are owned by a third-country national and are being delivered to third-country national. If the third-country product contains any p duct of Cuban origin in any quantity - whether sugar, tobacco, nickel, or b medical products - the vessel is barred from entering United States ports, w ther its purpose be to load or unload cargo, take on bunker fuel or ship s res or to make repairs. Moreover, the legislation prohibits the sale of bu ker fuel or ships' stores of United States origin to those third-country essels by third-country companies anywhere in the world.

4. Sanctions against third co tries which maintain commercial relations with Cuba

The legislation declares it to b the policy of the United States "to make clear to other countries that, i determining its relations with them, the United States will take into acco nt their willingness to cooperate" with the sanctions programme of the United States against Cuba. To implement this policy, the President "should encoura e the Governments of countries that conduct trade with Cuba to restrict t eir trade and credit relations". To enable the President to do more than encourage" third countries in that direction, the legislation authorizes the President to impose specified "sanctions against countries assistin Cuba". Significantly, the definition of "assistance" to Cuba which would s bject third countries to these "sanctions" includes ordinary trade i the United States, in its own unilateral judgement, considers the t rms of that trade to be "more favorable than that generally available in the pplicable market".

5. Continued blockade of medicines

The legislation reconfirms the prohibition of the United States against persons subject to the jurisdiction of the United States selling medicines to Cuba. It goes further, however, in that it even seeks to discourage third countries from providing medical assistance to Cuba.

Humanitarian donations of medicines to the Government of Cuba will make the third country subject to Presidentially imposed sanctions authorized by the legislation. Similarly, sales to the Government of Cuba or even to Cuban non-governmental organizations on terms the United States considers to be more favourable than normally available in the applicable market would make the third country subject to the same sanctions. Only if the United States - not the third country - conducts on-site inspections in Cuba of the medicines' distribution will the third country be immune from such sanctions.

6. Continued blockade of food

The legislation reconfirms the prohibition of the United States against any sale of food or foodstuffs to Cuba by persons subject to the jurisdiction of the United States. Although humanitarian donations to non-governmental organizations are permitted, it is evident that only the unimpeded access of Cuba to food and foodstuffs on a commercial basis can have a substantial effect on the welfare of the Cuban population.

Just as the legislation seeks to discourage third-country sales and donations of medicines to Cuba, so does the legislation seek to discourage third-country sales or donations of foods and foodstuffs. Donations of food to the Government of Cuba would make a third country subject to Presidentially imposed sanctions authorized by the legislation. So, too, would sales to the Government of Cuba or to non-governmental organizations on terms the United States considers to be more favourable than generally available in the applicable market.

7. United States funding of political opposition in Cuba

This legislation authorizes the President of the United States to provide "assistance" to groups within Cuba opposed to the current political system. This open interference in the internal affairs of a sovereign State is made even more striking by the fact that the United States blockade, at the same time, prohibits United States citizens from providing assistance - whether in the form of donated funds, supplies, training or services - to any Cuban institution, whether governmental or non-governmental. This categorical prohibition applies even to any assistance United States persons might wish to offer Cuba in support of any development project, whether in the cultural, educational, health or other fields.

Notes

a/ A/46/193/Add.7, 13 September 1991 and A/46/599, 25 October 1991.